



Contra
Costa
County

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: February 26, 2019

Subject: Verizon Wireless Access Permit #WA17-0008

RECOMMENDATION(S):

1. OPEN the public hearing on an appeal of a Planning Commission decision to approve a wireless facilities access permit for a Verizon Wireless cell site on a utility pole in the right of way near 20 Francesca Way in the Alamo area. (Permit No. WA17-0008), RECEIVE testimony, and CLOSE the public hearing.
2. DETERMINE that County File #WA17-0008 is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303.
3. DIRECT the Department of Conservation and Development to file a CEQA Notice of Exemption with the County Clerk.
4. APPROVE a wireless facility access permit for a Verizon Wireless cell site on an utility pole in the Danville Boulevard public right-of-way in Alamo (Permit No. WA17-0008).
5. APPROVE the findings in support of Permit No WA17-0008.
6. APPROVE the conditions of approval for Permit WA17-0008.
7. DENY the appeal of James "Sean" Albright.

FISCAL IMPACT:

The applicant has paid the necessary application deposit, and is obligated to pay supplemental fees to cover all additional costs associated with the application process.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/26/2019** ☐ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes:

See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I
Supervisor
Candace Andersen, District II
Supervisor
Karen Mitchoff, District IV
Supervisor
Federal D. Glover, District V
Supervisor

ABSENT: Diane Burgis, District III
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 26, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Joseph Lawlor, (925)
674-7802

cc:

BACKGROUND:

This is a hearing for an appeal of the County Planning Commission's decision to deny an appeal and uphold the decision of the County Zoning Administrator to approve a Wireless Facility Access Permit to establish a new Verizon Wireless cell site attached to an existing utility pole within the Danville Boulevard public right-of-way adjacent to 20 Francesca Way, in the Alamo area of unincorporated Contra Costa County.

Project Description

The project is to establish a new cell site attached to an existing utility pole and includes adding one 4-foot-tall canister antenna (on top of a 5-foot-tall pole extension) located on top of the pole and ancillary equipment also attached to the pole. Ancillary equipment includes:

- Two diplexers;
- Two Remote Radio Units (RRUs);
- One disconnect switch;
- One electrical panel;
- One PG&E smartmeter; and
- Associated conduit and wiring.

With the addition of the extension and 4-foot-tall antenna to the top of the pole, the facility would be 47.8 feet tall. The other equipment would be mounted on the side of the pole from 8 to 18 feet above grade and would extend outwards from the pole up to 1-foot 9-inches. No ground mounted equipment is proposed.

Appeal of the County Planning Commission's Decision

On January 22, 2018, Mr. James "Sean" Albright filed an appeal with the Department of Conservation and Development, Community Development Division, over the decision of the County Planning Commission to deny the appeal and uphold the decision of the County Zoning Administrator to approve the Wireless Facility Access Permit. The appeal point in the letter has been summarized and addressed below:

James "Sean" Albright, 20 Francesca Way, Alamo

Summary of Appeal Point:

In his appeal letter, Mr. Albright states that the County Planning Commission erroneously denied his appeal, based on Verizon Wireless' rebuttal to information he presented at the Commission meeting. He attests that since the rebuttal from Verizon Wireless was not accurate, the Commission did not recognize that the new facility would increase an existing safety risk due to poor visibility at the intersection of Danville Boulevard and Francesca Way. The letter provides four responses to the claims made by

Verizon at the Commission hearing. The four points are as follows:

- The pictures which Mr. Albright presented at the Commission were taken from a vehicle, not from an elevated location, as stated by Verizon, which would exaggerate the view obstruction.
- The equipment represented in the mock-up photos presented by Mr. Albright at the Commission accurately represent the size of the equipment that would be located at eight feet above ground level.
- The proposed equipment would project significantly because the pole is smaller than what is represented in the architectural elevations.
- Adding the equipment increases the safety risk, regardless of the obstruction caused by the existing pole.

Staff Response:

The photographs and testimony presented by Mr. Albright at the Commission meeting were reviewed by the Commission and County staff. Based on all the information provided, the Commission denied the appeal of Mr. Albright.

Public Works Department staff and consultant explained that line-of-sight measurement requirements from the California Highway Design Manual (HDM) Topic 405 provide that line of sight for corner sight distance for passenger cars is to be determined from a 3 and 1/2-foot height at the location of the driver of the vehicle in the center of the minor road lane to a 3 and 1/2-foot object height in the center of the approaching outside lane of the major road. Based on these standards, the Commission found that the line of sight would not be obscured by the proposed equipment located at 8 feet above ground level. Nevertheless, after considering all testimony, the Commission directed staff to add a condition of approval to the project (Condition of Approval No. 29) which provides: "The proposed pole-mounted shroud shall be located at a height not lower than 11 feet from ground level. Any equipment that cannot be located above 11 feet from ground level shall, to the extent feasible, be located within the profile of the utility pole."

Mr. Albright has appealed the Commission's decision on the grounds stated above. Public Works Department staff have re-evaluated the proposed design of the facility and the proposed locations for all pole-mounted equipment, and have considered Condition of Approval No. 29. Based on the HDM line-of-sight measurement standards described above, the physical size of the utility pole and all pole-mounted equipment, and the requirements of the condition of approval, Public Works Department staff have determined that driver line-of-sight distances will remain unchanged following installation of the facility. Therefore, the facility and pole-mounted equipment will not increase the safety risk to the traveling public.

DCD staff recommends that the Board of Supervisors deny the appeal on the grounds stated above and uphold the Planning Commission's decision on County File #WA17-0008.

Project History

Verizon Wireless c/o On Air, LLC, submitted County File #WA17-0008 on October 19, 2017. A Notice of Tentative Approval was sent to property owners within 300 feet of the project site on September 7, 2018. Two request for a hearing were recieved during the noticing period, becoming the impetus for the October 1, 2018 County Zoning Administrator Meeting. At the hearing, the Zoning Administrator continued the application to a open hearing on October 15, 2018, so that information and testimony submitted could be considered and the applicant could provide information regarding the location of the utility pole. At the October 15, 2018 hearing, the applicant submitted a field survey verification letter, prepared by Curt C. Castro, Licensed Land Surveyor (CLLS #8714), which confirmed location of the subject pole within the Danville Boulevard right-of-way. The Zoning Administrator continued the application to a hearing on November 5, 2018, so that the submitted survey could be reviewed. The Zoning Administrator approved the project at the November 5, 2018 hearing. On November 15, 2018, James "Sean" Albright filed a timely appeal with the Department of Conservation and Development, Community Development Division (CDD) over the decision of the Zoning Administrator (ZA) to approve the proposed project, becoming the impetus for scheduling the appeal of the Zoning Administrator's decision on the December 12, 2018 County Planning Commission meeting. The Commission continued the hearing to Wednesday, January 9, 2019, due to lack of time. The Commission approved the project at their meeting on January 9, 2019. This approval included one additional condition and a modification to Condition of Approval No. 28 for consistency with the other approved Wireless Access applications.

The modified conditions stated, "Within 15 days of the antenna being installed, Verizon shall take RF power density measurements with the antenna operating to verify the level reported in the Hammett and Edison report and to ensure that the FCC public exposure level is not exceeded in any publicly accessible area. This measurement shall be taken again if any equipment is replaced or added. Verification of these measurements shall be submitted to CDD for review and to confirm that the requirements of the Ordinance Code have been met." The additional condition required that: "The proposed pole-mounted shroud shall be located at a height not lower than 11 feet from ground level. Any equipment that cannot be located above 11 feet from ground level shall, to the extent feasible, be located within the profile of the utility pole."

On January 22, 2019, James "Sean" Albright filed a timely appeal with the Department of Conservation and Development, Community Development Division (CDD) over the decision of the County Planning Commission to approve the proposed project.

Conclusion

The appeal is similar to the testimony offered to the County Zoning Administrator and County Planning Commission and does not provide support for overturning the County

Planning Commission's decision. The proposed Verizon cell site complies with the County Wireless Telecommunication Facilities Ordinance and would not conflict with the Single-Family Residential, Low-Density (SL) General Plan land use designation or the Single-Family Residential R-20 Zoning District. The proposed project is also consistent with State and Federal regulations governing cellular telecommunications, and installation within a public right-of-way. Additionally, staff has determined that the project, as conditioned, is the least intrusive design. Therefore, staff recommends that the Board of Supervisors deny the appeal and sustain the County Planning Commission's approval of County File #WA17-0008, based on the attached findings and subject to the attached conditions of approval.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors grants the appeal, the County Planning Commission's decision to uphold the County Zoning Administrator's approval of the proposed Verizon Wireless cell site, attached to an existing utility pole in the public right-of-way, will be overturned. The applicant, Verizon Wireless, would be unable to move forward with the project as proposed.

CLERK'S ADDENDUM

Speakers; Matt Lewis; Cathy Wojan; Joia Boos; Cathy Wojan; Gina; Art Scimia, Meadow Lane Improvement Association; David Baer; Lisa Snortum-Phelps; Ruth Strong; Kraj Khararjan; Linda Uhrenholt; Roger Smith; Anne Goldman; Alex Krueger; Megan Maddern; Melanie Volk; Kimberly Crowe; Shannon Erickson; Nadine Whisnant; Jill Sanchez.

Written commentary was received from (attached): Jami Tucker, Christine Scimia, Rob Harrison, Scott Maddern, Erin Lewis, Blessings Robertson-Winn, Elaine Gast, Judy DeYoe, Kirsten Muzinich, Rachel Day, Melanie Volk, no name, Irene Amido, Penelope Kojina, Tanya Krueger, Hayuta Jain, Susanne Frey, Jodee Brydges, Alex & Tanya Krueger, Kate Rudick, Christina Heil, Mandula Rewal, Kimiko Nguyen, Mitch Tunick, Karrie Haneman, Barry Winters, Tarplaijo, Eunice Chan, Christine Brashear, Miriam Winters, Bradley Hillbrandt, Laura Hillebrandt, Elizabeth Yuan, Devon Mitzel, Brett Pels, Woodie Dixon, Edward Volk, Hanh T. Estep, Joe & Paula Buenavistas, Mary Dietler, Lianna Gatto, Melanie Volk, Wendy Ko, Caroline Sherborne & Charles Bouch.

CLOSED the public hearing; DETERMINED that County File #WA17-0008 is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303; DIRECTED the Department of Conservation and Development to file a CEQA Notice of Exemption with the County Clerk; APPROVED a wireless facility access permit for a Verizon Wireless cell site on an utility pole in the Danville Boulevard public right-of-way in Alamo (Permit No. WA17-0008); APPROVED the findings in support of Permit No WA17-0008; APPROVED the conditions of approval for Permit WA17-0008 with amendments: (1) within 15 days after facility installation, Verizon must complete radio frequency (RF) testing at the facility, and, at the same

time, Verizon must perform RF testing for interested property owners at their properties within a 300 foot radius of the facility, and (2) one year after facility installation, Verizon must re-perform RF testing at the facility, and, at the same time, perform RF testing for interested property owners at their properties within a 300 foot radius of the facility; and DENIED the appeal of James “Sean” Albright. Sean Albright, resident of Alamo

ATTACHMENTS

Maps

Plans

Albright Appeal Letter

Findings and Conditions of Approval

Radio Frequency Report

PowerPoint Presentation